

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

BILL: CS/CS/SB 1218

SPONSOR: Judiciary Committee, Education Committee, Senators Aronberg and Bullard

SUBJECT: Student Social Security Numbers/Public Postsecondary Institutions

DATE: March 16, 2004 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Matthews</u>	<u>O'Farrell</u>	<u>ED</u>	<u>Favorable/CS</u>
2.	<u>Matthews/Cibula</u>	<u>Lang</u>	<u>JU</u>	<u>Favorable/CS</u>
3.	_____	_____	<u>GO</u>	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

The committee substitute for committee substitute prohibits state universities, community colleges, and public postsecondary technical centers from using a student's social security number as an identification number except for purposes of employment, financial aid, research, assessment, accountability, transcripts, or as otherwise required by state or federal law if the social security number is not publicly disclosed. In addition, the bill prohibits displaying a student's social security number, printing a student's social security number on any identification document issued by the institution, or requiring a student to use his or her social security number on the Internet unless sufficient security precautions are used.

The committee substitute for committee substitute requires each state university, community college, and public postsecondary technical centers to develop a plan for implementation by July 1, 2005, which must include provisions on educating staff on the proper uses of social security numbers. The plan must be submitted to the Governor and the Legislature.

Under the committee substitute for committee substitute, beginning on December 1, 2005, an affected student may petition a circuit court for an order directing a state university, community college, or public post secondary technical center cease the improper use of a social security number or to implement a plan to prevent the improper use of a social security number.

This committee substitute for committee substitute creates s. 1004.09, Florida Statutes.

II. Present Situation:

State universities and community colleges often use a student's social security number as a student's primary identifier in order to locate records on that student. According to a survey conducted by the House Committee on State Administration, in conjunction with the House Committee on Information Technology, state universities and community colleges collect social security numbers for various purposes. Survey responses indicated that the state universities and community colleges disclosed social security numbers for a variety of legitimate student purposes such as to collection agencies, health insurance companies, and other contractors. The survey indicated that state universities and community colleges do not disclose a student's social security number for commercial purposes or pecuniary gain.

However, the use of a student's social security number and the potential for its public dissemination makes it more likely that an individual could use a student's social security number to obtain personal and private information, including financial and health information, for improper purposes. Improper use of personal identification information is becoming a state and national problem. In 2000, Governor Bush appointed a statewide Task Force on Privacy and Technology (Task Force) pursuant to s. 282.3095, F.S. According to the Task Force, identity theft is one of the fastest growing crimes in the U.S., affecting nearly half a million people in 1998. Florida accounts for the third most reported complaints of identity theft to the Federal Trade Commission.¹

As a result, the 2002 Legislature created s. 119.0721, F.S., which established a public records exemption for social security numbers in the possession of state agencies, its agents, employees, or contractors.²

In recognition of the potential for fraud, some of the state universities and community colleges have begun the process of moving away from using the social security number as a student identification number such as the Florida International University, the University of Florida, and the University of North Florida. The University of Florida reported that its process took more

¹ The Task Force on Privacy and Technology: Executive Summary of Policy Recommendations, 2000.

² As of October 1, 2002, all social security numbers held by an agency or its agents, employees, or contractors were made confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. *See* s. 119.0721, F.S. Social security numbers may be disclosed to another governmental entity or its agents, employees, or contractors if disclosure is necessary for the receiving entity to perform its duties and responsibilities. The receiving governmental entity and its agents, employees, and contractors shall maintain the confidential and exempt status of such numbers.

However, until January 1, 2006, if a social security number, made confidential and exempt pursuant to s. 119.0721, created pursuant to s. 1, ch. 2002-256, passed during the 2002 regular legislative session, or a complete bank account, debit, charge, or credit card number made exempt pursuant to paragraph (dd), created pursuant to s. 1, ch. 2002-257, passed during the 2002 regular legislative session, *is or has been included in a court file*, such number as part of the court record may be publicly inspected and copied unless the holder (or holder's attorney or guardian) requests in writing that the number be redacted. The request has to specify the case name, the case number, document heading and page number of the court document. *See* s. 119.07(3)(ff), F.S. On January 1, 2006, and thereafter, the clerk of the court and the county recorder must keep complete bank account, debit, charge, and credit card numbers exempt as provided for in paragraph (dd), and must keep social security numbers confidential and exempt as provided for in s. 119.0721, F.S. without any person having to request redaction.

than a year. However, not all state universities and community colleges have begun or completed the move from the use of social security numbers.

Other States

Several states have passed laws restricting the use of student social security numbers including the following:

- Arizona – Requires a state university or community college to assign an individual identification number to students that may not be the student’s social security number. A university or community college may not display the student’s social security number or any four or more consecutive numbers contained in the social security number on any internet site maintained by the university or community college or other publicly accessible document for any purpose. However, this provision does not exempt any institution from a duty of compliance with federal law that may regulate the institution’s use or collection of social security numbers or protect the privacy rights of students. In addition, the provision does not bar the electronic transfer of student transcripts between educational institutions.³
- Virginia – Prohibits a university or community college from displaying the social security number on a student identification card.⁴
- Washington – Prohibits institutions of higher education from using the social security number of any student for identification except for purposes of employment, financial aid, research, assessment, accountability, transcripts, or as otherwise required by state or federal law. Each institution must develop a system of personal identifiers to be used for grading and other administrative purposes. The personal identifiers may not be social security numbers.⁵
- West Virginia – Prohibits a university from displaying a student’s social security number to identify students for posting or public listing of grades, class rosters, or other lists provided to teachers; on student identification cards; in student directories or other listings; or unless otherwise provided by law for any public identification purpose. The provision does not bar a university from using a student’s social security number for internal record keeping purposes or studies.⁶

III. Effect of Proposed Changes:

This committee substitute for committee substitute prohibits state universities, community colleges, and public postsecondary technical centers from:

- Using a social security number as an identification number to identify a student except for certain authorized purposes if the social security number is not publicly disclosed;
- Posting or displaying a student’s social security number which the bill defines as intentionally communicating the number or otherwise making the number available to the general public;

³ A.R.S. s. 15-1823

⁴ Va. Code Ann. s. 2.2-3800

⁵ WA ST 28B.10.042

⁶ W. Va. Code, s. 18-2-5f

- Printing a student's social security number on any identification document issued by the state university, community college, or public postsecondary technical center to include professional licenses, student identification card, driver's license, Medicaid card, or health insurance card;
- Requiring a student to transmit his or her social security number over the Internet unless the connection is secure and the number is encrypted; or
- Requiring a student to use his or her social security number to access an Internet website unless a password or unique personal identification number or other authentication device is also required to access the Internet website.

The committee substitute authorizes a state university, community college, or public postsecondary technical centers to collect, use, and report student social security numbers to the Department of Education for the following purposes: employment, financial aid, research, assessment, accountability, transcripts, or as otherwise required by state or federal law if the student's social security number is not publicly disclosed. The state benefits from the use of social security numbers that are internally used by an institution but not publicly disclosed by providing information on graduation rates, rates of access by underserved populations, and employment and earnings of former students. Many of these legitimate uses of a student's social security number are insulated from public disclosure by s. 119.07(3)(ff), F.S., s. 1002.22, F.S., and the Family Educational and Privacy Rights Act (FERPA), 20 U.S.C. s. 1232g.

The committee substitute for committee substitute limits its application with respect to publicly posting or displaying a student's social security number by providing that the provisions do not apply to records of the clerks of the court governed by s. 119.07(3)(ff), F.S.

The committee substitute for committee substitute limits the use of social security numbers for certain professional licenses, driver's licenses, Medicaid cards, and health insurance identity cards. Many of these documents are not issued by a state university, community college, or public postsecondary technical center. Accordingly, the bar on use would not protect a student against identity theft.

The committee substitute for committee substitute does not apply to private postsecondary institutions.

The committee substitute for committee substitute requires each state university, community college, and public postsecondary technical center to develop a plan to implement the prohibition on use of social security numbers as outlined above. The plan must include provisions for educating staff regarding the proper uses of social security numbers. The postsecondary institutions must submit the plan to the Governor, the President of the Senate, and the Speaker of the House of Representatives by February 1, 2005. The plan must be implemented by July 1, 2005, and applies only to students enrolled after July 1, 2005.

The timeline between plan adoption and plan implementation is only 5 months. Given the experience of the University of Florida, it may not be completely feasible for all the state universities, community colleges, and public postsecondary technical centers to comply with the deadline.

The committee substitute for committee substitute authorizes, beginning December 1, 2005, a student to petition a circuit court for an order directing compliance with the act.

The committee substitute takes effect July 1, 2004.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The committee substitute for committee substitute could affect businesses that rely on obtaining information from state universities, community colleges, or public postsecondary technical centers by prohibiting the use of the student's social security number.

To the extent a student can afford the time and resources to petition the circuit court for an order of compliance, a student has civil recourse to seek enforcement of the law. Effective July 1, 2004, a student will have to pay a maximum filing fee cap of \$250 (up from the existing maximum service charge cap of \$65.50 for one plaintiff), to initiate an action in circuit court, as a result of the statutory implementation of Revision 7 to Article V of the Florida Constitution. *See* s.32 of ch. 2003-402, L.O.F.; s. 28.241, F.S.

C. Government Sector Impact:

Costs associated with requiring each state university, community college, and public postsecondary technical center to avoid using the student's social security number as an identification number by the time certain provided in the committee substitute. The extent of that cost is indeterminate at this time. By way of example, Florida Gulf Coast University is estimating approximately \$355,000 in direct costs associated with complying with the committee substitute for committee substitute.

The state universities, community colleges, and public postsecondary technical centers that have not implemented a procedure to use an alternative identification number may face exposure for failure to meet the deadlines.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:

None.

This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.
